

REMARKS

Claims 2-6 are pending in the present application. By this response, claims 2-6 are amended. Care has been exercised to avoid the introduction of new matter or raising issues not previously considered by the examiner.

Claim rejections based upon the judicially created doctrine of obviousness-type double patenting

Claims 2-6 stand provisionally rejected based on the doctrine of non-statutory obviousness-type double patenting, as being unpatentable over the claims of copending patent applications number 10/055,562.

Responsive thereto, this rejection is respectfully traversed based upon ground that the common elements cited by the Examiner are not cited in the present claims as amended.

In order to expedite prosecution of the present application, a terminal disclaimer

and fee are attached hereto, thereby obviating the subject rejection. Accordingly, it is urged that this ground for rejection be withdrawn by the Examiner.

Claim rejections based upon conventional art

Claims 2-5 stand rejected under 35 USC § 102(b) as being anticipated by Melker (U.S. Patent No. 5,628,305). A description is provided for an operation of the Melker device in which the longitudinal dimension of the cylindrical bellows is adjusted to effect a preset airflow output volume. The Examiner has kindly provided a sketch depicting his interpretation of the Melkor device. It is noted that the bellows is contained in a shell or structural framework, which is adjustable in order to change the volume of air permitted into the bellows during the input cycle of the bellows.

Claim 6 stands rejected under 35 USC § 103(a) as being unpatentable over Melker. The Examiner admits that Melker fails to teach a regulator for blocking airflow. However, Melker does refer to the known use of providing pressure regulation. The Examiner concludes that it would have been obvious to one of ordinary skill in this

art to include a regulator with the device of Melker in order to prevent too much gas from being presented to the lungs.

Arguments

The rejection based upon conventional art is respectfully traversed. In particular, no combination of conventional art teaches the structural arrangements recited in independent claim 2.

The inventive structures include a latitudinally contracting cylindrical bellows, as opposed to the longitudinally contracting "accordion" bellows of the cited Melker patent. Further, claim 2 recites means for adjusting the extent of the latitudinal contraction of the cylindrical bellows in order to control the volume of the air output (air delivered by the resuscitator). This is an operation not remotely suggested by an "accordion" bellows, such as that taught by the Melker patent.

The present invention controls the airflow output volume by stopping contraction of the cylindrical bellows. This is done by inserting end pieces into the bellows (as depicted in Figures 7a and 7b). In contrast, it is the shell or casing 1 of the Melker device that is adjusted to stop air input to the bellows by limiting the

expansion of the bellows. The present invention provides a more accurate way of controlling airflow output from the bellows, especially for small measured doses. This is because the airflow rate of the present invention increases as the bellows is latitudinally contracted (as recited in Claim 3). This particular functionality means that the bellows of the present invention is uniformly deflated along its entire longitude as it is latitudinally contracted. As a result, there is less dependency upon manual handling of the bellows, and much better control of airflow rate, and ultimately of the volume of gas delivered to the patient from the output of the resuscitation.

Since the output volume of the bellows is controlled by inserting structures into either end of the bellows (as recited in Claim 4), an entirely different structural arrangement is obtained than that provided by Melker. The bellows of the present invention does not alter in size, as is the case when the casing 1 of the Melker patent is contracted. Rather, the bellows of the present invention is merely limited in the distance it can contract latitudinally.

Because enhanced control of the airflow rate results from the particular bellows (latitudinally contracting) structure of the present invention, and the

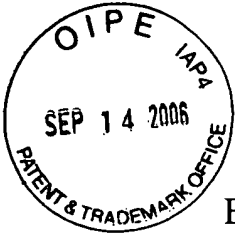
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limitations to its contraction, an unexpectedly superior result has occurred, allowing far better control of airflow rate. Accordingly, any application of doctrines of obviousness between the "accordion" bellows of the conventional art and the latitudinally contracting bellows of the present invention would be inappropriate. Accordingly, it is urged that the Examiner withdraw the rejection of the amended claims.

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CONCLUSION

Based upon the aforementioned comments and amendments, it is urged that Claims 2-6 are in condition for allowance, as is the remainder of the subject patent application. Favorable reconsideration is respectfully requested.

Should the Examiner have any questions, comments, or suggestions, or should issues remain, he is respectfully requested to contact the undersigned by telephone for a prompt and satisfactory resolution.

Respectfully submitted,
Lev Intellectual Property Consulting

A handwritten signature in dark ink, appearing to be "R. Lev".

Robert G. Lev
Registration No. 30,280

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4766 Michigan Boulevard
Youngstown, Ohio 44505
Telephone: (330) 759-1423
Facsimile: (330) 759-4865

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SIGNATURE Kim Woods